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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE CIVIL JURISDICTION
WRIT PETITION NO. 5904 OF 2007

M/s. Sterlite Optical Technologies
Ltd. .. Petitioner
Versus
Union of India and Ors. .. Respondents

Mr. Madhur R. Baya for Petitioner.

Mr. P.S. Jetly with Mr.Y.S. Bhate for Respondents.

**CORAM: F.I. REBELLO &
J.P.DEVADHAR, JJ.
DATED: AUGUST 31, 2007**

P.C.:

. Rule. Heard forthwith.

. The Petitioners have approached this court against the order dated 29.8.2006 whereby they have been directed to pre deposit the sum of Rs.2,50,00,000/-. The Petitioners thereafter moved the tribunal for modification of the said order. That came to be dismissed by order dated 16.5.2007. However, time to deposit was extended by the period of eight weeks from 16.5.2007.

. Our attention is invited to the fact that on the similar issue the judgments of the tribunal in 2004 (175) ELT 739 (Tri Mumbai) - Hivoltrans Electricals Pvt. Ltd. Vs. C.C.E. Vadodara, 2004(167)ELT 226 (Tri Mumbai)- Jyoti Structural Limited Vs. C.C.E. Nashik, 2003 9160 ELT 414 (Tri Mumbai) - Danke

Electricals Limited Vs. C.C.E. Vadodara has been accepted by the Revenue. In other words these orders have not been challenged and has consequently become final.

. On the other hand on behalf of the revenue our attention is invited to the judgment of the tribunal in K. Ram Kumar Vs. Commissioner of Central Excise, Nagpur, 2006 (193) ELT 504 (Tri. Mumbai) where the tribunal has taken a different view.

. In the instant case, the Petitioners have already deposited a sum of Rs.99 lacs. Their contention is that in so far as the balance amount is concerned, it is beyond the limitation and as such would not be covered. Considering that the revenue has accepted the claims of three assesseees on similar points, in our opinion, as the Petitioners have already deposited a sum of Rs.99,24,182/- the ends of justice will be met if the Petitioners are given an opportunity to pre deposit the appeal without any pre deposit. In the light of that the impugned order is set aside. The tribunal is directed to hear the Petitioners' appeals on merits without pre deposit.

. Rule made absolute accordingly. No order as to costs.

((-3-))

(J.P.DEVADHAR, J.)

(F.I.REBELLO, J.)